APPEAL NO. 020833
FILED MAY 21, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on March 7, 2002. The hearing officer resolved the disputed issue by determining that, during the qualifying periods for the 11th, 12th, and 13th quarters, January 11 through October 10, 2001, the appellant (claimant) had some ability to work; that the claimant did not attempt in good faith to obtain employment commensurate with his ability to work; and that the claimant is not entitled to supplemental income benefits (SIBs) for those quarters. The claimant has appealed on sufficiency of the evidence grounds, contending that all the records of the treating doctor constitute a sufficient narrative report detailing how the claimant cannot perform any work in any capacity. The claimant also contends that the report of the designated doctor, while not entitled to presumptive weight, also constitutes a sufficient narrative report. The respondent (carrier) urges the sufficiency of the evidence to support the challenged determinations.

DECISION

Affirmed.

The claimant testified that he felt he had no ability to work in any capacity during the three qualifying periods at issue; that he looked for a job during the 11th quarter qualifying period because he understood the carrier would not send him a SIBs check unless he did so; and that after he was examined by the designated doctor, he stopped his job search efforts because he understood that the designated doctor had determined he had no ability to work. In his discussion of the evidence, the hearing officer relates why he regards neither the reports of the treating doctor nor the November 8, 2001, report of the designated doctor as satisfying the requirement of Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(4) (Rule 130.102(d)(4)) for "a narrative report from a doctor which specifically explains how the injury causes a total inability to work . . . ." The claimant contends that the hearing officer is requiring "magic words" in order for a doctor's report to satisfy Rule 130.102(d)(4). We disagree. However, we do note that had the designated doctor's report been received prior to the expiration of the 13th quarter qualifying period, its sufficiency would be tested under the presumptive weight standard. *See* Texas Workers' Compensation Commission Appeal No. 020041-s, decided February 28, 2002, for a discussion of the application of Section 408.151 and Rule 130.110. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). The Appeals Panel will not disturb the challenged factual determinations of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do not find them so in this case. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660

(1951); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). The hearing officer could conclude that the records of the treating doctor and the report of the designated doctor were too conclusory in content to satisfy the narrative report requirement of Rule 130.102(d)(4).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **LUMBERMENS MUTUAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.

Philip F. O'Neill
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Robert W. Potts
Appeals Judge